

CHAPTER 64**(SJR 80)**

A JOINT RESOLUTION relating to a study of the Kentucky Penal Code and related offenses.

WHEREAS, the current Kentucky Revised Statutes were enacted in 1942 following a massive revision process; and

WHEREAS, the "430" Chapters of the 1942 Kentucky Revised Statutes contained many of the criminal statutes of the Commonwealth; and

WHEREAS, by the early 1970's it was realized that the original statutes together with many special amendments had resulted in a code which was inconsistent and did not, for the most part, contain elements of crimes but merely penalties; and

WHEREAS, the current Kentucky Penal Code began with studies by the former Kentucky Crime Commission into the Model Penal Code, Michigan Penal Code, Illinois Penal Code, and New York Penal Code; and

WHEREAS, the Legislative Research Commission contributed staff to the drafting effort and conducted a classification of all of the penalties in the entire then-current Kentucky Revised Statutes; and

WHEREAS, the original draft of the Kentucky Penal Code was presented to the General Assembly in 1972, but was believed to be weighted in favor of the prosecution; and

WHEREAS, the 1972 General Assembly passed the Kentucky Penal Code but with a delayed effective date to allow for further study; and

WHEREAS, the 1972 General Assembly requested the Governor to appoint a special study group consisting of prosecutors, defense attorneys, judges, and legislators to redraft the code and present a new version to the 1974 General Assembly; and

WHEREAS, the study group produced a draft version of the code which was viewed as a balanced and modern code and which was enacted by the 1974 General Assembly; and

WHEREAS, the present Kentucky Penal Code which became effective January 1, 1975, has been extensively added to and modified, and is the subject of many custom crimes and enhancements of penalties; and

WHEREAS, the General Assembly believes that the resulting prison and jail overcrowding and uneven penalty scheme presently contained in the code is in need of updating and change; and

WHEREAS, the General Assembly believes that the 34-year-old Kentucky Penal Code is in urgent need of reinvention, redrafting, and modernization;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. Subject to the approval of the Legislative Research Commission, the co-chairs of the Interim Joint Committee on Judiciary are directed to appoint a Penal Code Study Subcommittee of the Interim Joint Committee on Judiciary which shall:

- (1) Conduct a thorough review of the present Kentucky Penal Code;
- (2) Identify and enact a philosophy for a modernization of the Kentucky Penal Code;
- (3) Identify what other states have done in recent years in modernizing their penal codes;
- (4) Reconstruct the crimes contained in the Kentucky Penal Code to match the philosophy identified for the code;
- (5) Reconstruct and possibly expand the classifications of felonies, misdemeanors, and violations to provide a greater flexibility for the code;
- (6) Study the advisability of adjusting the current penalties for violent offenses, offenses resulting in death and serious physical injury, and offenses in which a weapon was used;

- (7) Study the advisability of adjusting the current penalties for nonviolent offenses, property crimes, and related offenses;
- (8) Restore an equal scheme of penalties for crimes of equal nature and seriousness;
- (9) Determine whether penalties for controlled substances offenses should be readjusted; and
- (10) Make such other recommendations as it may deem appropriate.

➔Section 2. The Governor, the Executive Department, the Justice and Public Safety Cabinet, the Criminal Justice Council, the Court of Justice, and the Administrative Office of the Courts shall provide necessary personnel, information, statistics, and other requested assistance, to assist the subcommittee in the performance of its duties.

➔Section 3. The subcommittee may hold public hearings to ascertain the views of state and local officials, affected entities, crime victims, and the public as to what a new revision of the Penal Code should contain.

➔Section 4. The final report of the subcommittee may be in the form of a draft for a full or partial revision of the Kentucky Penal Code in conformity with the provisions of this Resolution. The report shall be delivered to the Legislative Research Commission no later than December 1, 2008. However, the subcommittee may deliver a draft earlier if it has completed its work prior to that date. The draft may but shall not be required to have a commentary to accompany the draft.

➔Section 5. The provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Signed by Governor April 10, 2008.